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ABSTRACT

This module identifies the major provisions of federal laws involving vocational special needs education. Information is provided for implementing the Carl D. Perkins Vocational Education Act in Missouri. The guide includes a list of definitions and uses a question-and-answer format to discuss the legislation. Topics covered include education-to-work transitions, individualized education plans, individual vocational education plans, individualized written rehabilitation plans, the role of the state department of education in implementing the laws, and guidelines for local administrators. Thirteen references are included. (KC)

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TITLE: LEGISLATION FOR VOCATIONAL SPECIAL NEEDS

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ABSTRACT: Federal laws are highly important for vocational special needs education. The major provisions of these laws are identified and information is provided for implementing the Carl D. Perkins Vocational Education Act in Missouri.

CE 055 357

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LEGISLATION FOR VOCATIONAL SPECIAL NEEDS

Overview

Legislation at the national level is fairly specific regarding vocational training of special needs students. Three laws provide the bulk of this structure: The Education for All Handicapped Children Act (P. L. 94-142) and amendments, the Carl D. Perkins Vocational Education Act (P. L. 98-524), and The Rehabilitation Act of 1973 and its amendments. As a result of these three laws, vocational education for students with special needs will be conducted primarily in the mainstream rather than in separate programs. The Rehabilitation Act of 1973 may be thought of as civil rights legislation supporting the other two laws that provide detailed information regarding education.

Definitions/Terminology

Career Education - is more general in nature than vocational education, starts in elementary school and is comprised of all programs to prepare individuals for life.

Disadvantaged - individuals (other than handicapped individuals) who have economic or academic disadvantages and who require special services and assistance in order to enable them to succeed in vocational education programs. The term includes individuals who are members of economically disadvantaged families, migrants, individuals who have limited English proficiency (LEP) and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

Handicapped - persons who are mentally retarded, hard of hearing, deaf, speech/language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, other health impaired or persons with learning disabilities who by reason thereof require special education and related services to succeed in vocational education.

Least Restrictive Environment (LRE) - is a concept meaning that a special education student should receive the most minimally restrictive school placement wherein the student can function. An example is regular class placement with or without support personnel.

Mainstreaming - is a term often confused with LRE. As a philosophy, mainstreaming means that special education students should be educated with regular students when possible.

Special Education - is education designed for students who need services beyond those provided for the average student. These services must be individually planned after staff have conducted an assessment of student learning needs.

Vocational Education - Training and retraining programs leading to paid or unpaid employment where completion does not lead to a baccalaureate degree are included. The major areas of Vocational Education in Missouri are:

Agricultural Education
Business and Office Education
Home Economics Education
Marketing and Cooperative Education
Industrial Education
(i.e., auto mechanics, health occupations, building trades, electronics)

Vocational Special Needs - means handicapped, disadvantaged and limited English proficient students enrolled in vocational education programs.

Frequently Asked Questions

Q. WHAT ARE THE MORE IMPORTANT LEGISLATIVE ACTS AFFECTING THE EDUCATION OF SPECIAL NEEDS STUDENTS?

A. Several laws are of primary importance.

1. P. L. 94-142 or The Education for All Handicapped Children Act (1975) and its amendments provides basic guidelines for special education and does define and include vocational education for secondary students.

2. The Carl D. Perkins Vocational Education Act (1984) (P. L. 98-524) provides the basis for vocational education. Many programs for special needs students are revamped under this legislation. The rights and protections of P. L. 94-142 are extended to special needs students in vocational education.

3. The Rehabilitation Act of 1973 (P. L. 93-112) and its amendments are important to education. Section 503 provides for affirmative action and 504 provides for non-discrimination. These sections are administered by the Office of Civil Rights.

4. The Job Training Partnership Act (JTPA) (P. L. 97-300) (1982), while not specifically created for special needs individuals, funds various training programs that are appropriate for many special needs students seeking training or retraining. This program is especially appropriate for economically disadvantaged youths. Summer employment or training programs may be funded through JTPA.

5. Developmental Disabilities Act of 1984 (P. L. 98-537) places higher priority on employment-related services and a lower priority on social-development services for persons with developmental disabilities. University Affiliated Facilities (UAFs) are authorized to provide parents, professionals, and volunteers with service related training aimed at mainstreaming and increasing the independence, productivity, and community integration of developmentally disabled people (Schmidt, 1985).

6. The Tax Reform Act of 1986. This law extends The Targeted Jobs Tax Credit program for three additional years until December 31, 1988. It is retroactive to January 1, 1986.

7. Handicapped Children's Protection Act of 1986. This law amends the Education of the Handicapped Act to authorize the award of reasonable attorneys' fees to certain prevailing parties and to clarify the effect of the Education of the Handicapped Act on rights, procedures, and remedies under other laws relating to the prohibition of discrimination.

8. P.L. 99-457, The Education of the Handicapped Act Amendments of 1986. This act includes an extension of the discretionary grant programs through FY 1989 and a reauthorization of the EHAs transition program.

9. Fair Labor Standards Act (FLSA) of 1980. According to the FLSA of 1980, the Department of Labor governs child labor, minimum wage, overtime pay and recordkeeping. The FLSA establishes the difference between an "employer-employee" relationship in which an employee must be paid, and an "employer-trainee" relationship in which the "trainee" does not have to be paid.

Q. WHAT ARE THE MORE IMPORTANT COMPONENTS OF THESE LAWS?

A. A generalization about the first three is that the current focus is on the integration of all students when possible.

1. P. L. 94-142 or The Education for All Handicapped Children Act is highly important because of these components:

. Mandated handicapped student identification (child find),
. Mandated individualized education plans (IEP),
. Due process procedures,
. Parent/guardian consultation,
. Least restrictive environment (LRE),
. Nondiscriminatory testing and evaluation (use of native language),
. Confidentiality of information,
. Right to a free and appropriate education (FAPE),
. Assurance of "full service" goals and timetables,
. Assurance of a surrogate to act for any child when parents/guardian are unknown or unavailable or when the child is a legal ward of the state, and
. Incorporation of vocational education as an appropriate component of a secondary student's school program.

As a result of this legislation the following terms and acronyms have become jargon: IEP, child find, and least restrictive environment. Vocational education must be planned to fit the unique needs of the student rather than just making a course placement.

The 1983 Amendments (P. L. 98-199) of The Education for All Handicapped Children Act extended the age for services downward from three to birth, established grant authority for projects in transition from school to work, and earmarked 10 percent of personnel development funds for parent training projects. The 1986 Amendments (P.L. 99-457) of the Education for All Handicapped Children Act authorizes Federal assistance to states, under two formula grant programs, for the development and delivery of educational and related services to all handicapped children from infancy to school age. This law also revises and extends its discretionary grant programs through FY 1989 and establishes new project grants for the development of technology, educational media, and materials for special need students.
(Fraas, 1986)

2. The Carl D. Perkins Vocational Education Act (P.L.98-524) changed vocational education for special needs students. Because a number of groups have been underserved by vocational education, the following groups have been specified as target populations:

. Handicapped,
. Disadvantaged,
. Men and women entering nontraditional occupations,
. Adults in need of training and retraining,

. Single parents or homemakers,
. Limited English proficiency persons, and
. Incarcerated persons.

The Carl Perkins federal dollars can be matched with 50% local district monies to provide services to the above populations who are enrolled in vocational education. However, these services must be over and above the same or similar services provided for all students enrolled in vocational classes. These funds are not to be used to supplant existing programs, but to provide extra services needed for success in vocational training. Additional staff, materials, equipment, and other services can be provided through this legislation.

The Missouri Department of Elementary and Secondary Education, Division of Vocational and Adult Education, has decided that LEAs may enroll special needs students one year early. Students must be fifteen years old and in at least ninth grade in order to take advantage of "early entry". An Individual Vocational Education Plan (IVEP) must be written for all disadvantaged students in early entry programs.

Information regarding eligibility for enrollment in vocational education must be provided to handicapped and disadvantaged students and parents no later than the beginning of the ninth grade. Also, vocational education administrators must assure that the following be done:

. Provide special needs students equal access in recruitment, enrollment, and placement in the full range of vocational programs,

. Assess the interests, abilities, and special needs of each handicapped and disadvantaged student,

. Provide the needed special services for successful completion,

. Facilitate transition to employment and career opportunities by counselors in preemployment skills training, job placement services, and further training.

. Make vocational special needs staff available for inservice training when designated by the Vocational Special Needs Section, Department of Elementary and Secondary Education.

. Vocational education will be a component of the IEP for handicapped students and will take place in the least restrictive environment.

Staff who may be funded from P. L. 98-524 funds include counselors, vocational assessment specialists, placement specialists, vocational resource educators, basic skills instructors, and supplemental certified vocational instructors.

In addition, personnel such as interpreters for the deaf, readers and notetakers, clerical staff and aides may be included here. Also, funds may be used for publications, travel, supplies and materials including career awareness, exploration and assessment, and public announcements.

3. The Rehabilitation Act of 1973 (P. L. 93-112) provides the civil rights legislation necessary to enforce the provisions of the two education acts. Any student or parent can initiate a complaint against a school under Section 504 regarding equal access or treatment. The school's federal funds could all be withheld if discrimination were found.

   The 1985-86 HEATH Resource Directory describes how Section 504 affects postsecondary educational institutions:

> In substance, Section 504 provides that "no otherwise qualified handicapped individual ... shall, solely by reason of a handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." According to the Regulations, a "qualified handicapped individual," with respect to postsecondary and vocational education, is defined as one "who meets the academic and technical standards requisite to admission or participation in the recipient's education program or activity."
>
> Specific to the area of postsecondary education, Section 504 prohibits discrimination against handicapped persons in recruitment, testing, admissions, and treatment after admission by recipients of federal assistance. This means that colleges, universities, and other federally funded training programs are required to make reasonable adjustments and change discriminatory policies to permit handicapped students to fulfill academic requirements, and to insure that they are not effectively excluded from programs because of physical barriers or the absence of auxiliary aids.
>
> Architectural barriers must be removed <u>where a federally assisted program cannot be made accessible by other means</u>. A postsecondary institution, however, is not expected to make all

its classroom buildings accessible in order to comply with accessible buildings; it may instead take other steps to open the program to handicapped students.

Provision of auxiliary aids often may be accomplished by informing students of resources provided by Vocational Rehabilitation or charitable organizations.

For some handicapped persons no physical changes are necessary, but rather prejudicial attitudes and discriminatory policies must be changed to open the doors of opportunity. Full acceptance into the regular setting constitutes compliance with the regulations for many of these students.

4. The Job Training and Partnership Act, JTPA, (P. L. 97-300), mandates interagency cooperation and the integration of business/industry with agencies serving the jobless. Private Industry Councils (PIC) are developed in every region (called Service Delivery Areas, SDA's) of the country and are empowered to use federal funds for programs leading to employment. Although this law does not specifically relate to special needs students, handicapped and disadvantaged youth and adults may qualify for programs. For more information, contact your local PIC or Job Service office.

5. The Tax Reform Act of 1986 extends the Targeted Jobs Tax Credit program (TJTC) for three additional years until December 31, 1988. It is retroactive to January 1, 1986. The program offers employers a credit against their tax liability for hiring individuals from the nine target groups which includes youth aged 16 through 19 from economically disadvantaged families who participate in a qualified cooperative education program. This law serves the same nine target groups as under the prior authorization, however the amount of tax credit an employer may claim has been reduced. In addition, there is a minimum period of employment that is required before an employer may claim the tax credit. (U.S. Dept. of Labor)

6. P. L. 98-537, the Developmental Disabilities Act of 1984, makes it possible for more severely impaired handicapped youth to pursue competitive employment goals. Each region is currently developing plans/programs to aid youth in making the transition from school to adult life. Such concepts as "supported work", "enclaves" and "individualized vocational training programs" are becoming more common as models to utilize for this population.

7. The Fair Labor Standards Act (FLSA) of 1980 has significance for school based vocational training programs for special needs students. The FLSA established the difference between an "employer-employee" relationship in which an employee must be paid, and an "employer-trainee" relationship in which the trainee does not have to be paid. If all of the following criteria apply, the trainees or students are not employees within the meaning of FLSA:

    1. the training, even though it includes actual operation of the facilities of the employer, is similar to that which would be given in a vocational school;

    2. the training is for the benefit of the trainees or students;

    3. the trainees or students do not displace regular employees, but work under their close observation;

    4. the employer that provides the training derives no immediate advantage from the activities of the students; and on occasion the employer's operations may actually be impeded;

    5. the trainees or students are not necessarily entitled to a job at the conclusion of the training period; and

    6. the employer and the trainees or students understand that the trainees or students are not entitled to wages for the time spent in training.

    If all six of the above FLSA criteria can be met for the establishment of an "employer-trainee" relationship, then special needs students who are still enrolled in public schools and are participating in community based training sites do not have to be paid competitive wages. (Razeghi, 1988)

Q. WHAT IS "TRANSITION" THAT THESE LAWS TALK ABOUT?

A. Because studies have shown that special needs students have a more difficult time obtaining and retaining employment after graduation, the idea of providing services to make the transition from school to work more effective was proposed in 1984 by Madeline Will, U.S. Assistant Secretary of Special Education and Rehabilitation Services.

Under the OSERS transition model, some students will need no help moving from school to adult life, others will need services for short time periods and some students will need ongoing services for an extended length of time. The major adult service provider for time-limited services is usually the Division of Vocational Rehabilitation for handicapped students. The Developmental Disabilities/Mental Retardation division is the major adult service provider for ongoing services. JTPA programs would be a major adult service provider for disadvantaged students.

Q. WHAT ARE IEPs, IVEPs AND IWRPs?

A. Special Education uses IEPs, Vocational Education uses IVEPs, and Vocational Rehabilitation uses IWRPs. The following will compare these plans and clarify their purposes.

PLAN: Individualized Education Plan (IEP)

DEFINITION: An Individualized Education Plan is a written statement which describes (1) the nature and extent of the special education services to be provided; (2) the duration of those services; and (3) criteria to evaluate the effectiveness of those services. The purpose of an individualized education program is to have a written record of decisions reached jointly by the child's parents and the school personnel about the educational needs of a handicapped child. The IEP is a written commitment on the part of the parents and the school to provide resources necessary for the handicapped child to receive needed special education. The IEP also can be used to evaluate the progress of the student. It can be changed at any time and should be reviewed and rewritten at least yearly.

POPULATION:

Speech Impaired	Mentally Handicapped
Hearing Impaired	Orthopedically Handicapped
Learning Disabled	Visually Impaired
Behavior Disordered	Multiply Handicapped

COMPONENTS:
- Current level of performance
- Annual goals and related objectives
- Specific services and percent of time in the regular classroom
- Evaluation of goals and objectives
- Dates for initiation and review of services
- Confidentiality

TEAM MEMBERS: The individual education plan should be written in the presence of a representative of the public school, other than the student's teacher, who is qualified to provide, or supervise the provision of, special education. The other team members

should include the special education teacher, parents, the student (if appropriate) and any other individuals who are involved in the child's educational process.

SOURCE: Resource Guide for Special Services. Vol. 1-A and Vol. 1-B. Missouri Department of Elementary and Secondary Education.

PLAN: Individual Vocational Education Plan (IVEP).

DEFINITION: The individualized vocational education plan is modeled after the individualized education plan (IEP) which is used to guide the learning experiences of special needs students. As with the IEP, the IVEP is confidential, based on the student's needs and should include vocational goals and objectives. The plan can be changed at any time and should be reviewed at least yearly.

POPULATION: Disadvantaged students who enter vocational training programs prior to the "normal" year of entry (11th grade) must have IVEP's developed to show their need for vocational training and the objectives to be accomplished within that year. A student must be at least 15 years old or in the ninth grade to be eligible for early entry into vocational classes.

COMPONENTS:
- documentation of eligibility using the definitions for disadvantaged outlined in the Carl D. Perkins Act
- reason(s) for early entry and student assessment data
- long and short range vocational goals and objectives
- list of courses to meet the student's overall education plan
- support services needed
- transition plan from school to work or further training

TEAM MEMBERS: The student, parents teachers, counselor and other significant persons need to collaborate in the development of the IVEP. "Other" persons could include a principal, community agency representatives and a representative from the vocational program the student wishes to enter.

SOURCE: Vocational Planner's Guide for the Carl D. Perkins Vocational Education Act of 1984, P. L. 98-524. DESE Vocational Special Needs and Guidance Services Bulletin. Division of Vocational and Adult Education, Vol. VIII, No. 3, January, 1986.

PLAN: Individualized Written Rehabilitation Plan (IWRP)

DEFINITION: The Individualized Written Rehabilitation Plan is written by the Division of Vocational Rehabilitation Counselor and the client. It usually includes a vocational goal, long and short term goals and the responsibilities of the client and the counselor. The plan can be changed at any time and is reviewed at least yearly.

POPULATION: Physically or mentally handicapped persons must meet three eligibility requirements:

- a physical or mental handicap which is medically documented
- the disability must interfere with the person's ability to work
- there must be a reasonable expectation that the services provided through Vocational Rehabilitation will result in employment

COMPONENTS:
- Vocational goal
- Anticipated date of employability
- Intermediate objectives
- Anticipated date of completion
- Services to be provided by Vocational Rehabilitation
- Client responsibilities
- Other related responsibilities
- Views of client regarding goals, objectives and services planned
- Schedule of review and evaluation of progress

TEAM MEMBERS: The plan may be written by the Rehabilitation Counselor and the client. However, if the client is still in school, this plan may be written in coordination with the student's IEP.

SOURCES: Questions and Answers about Vocational Rehabilitation in Missouri
A copy of the IWRP

Both available from:
Missouri Department of Elementary and Secondary Education
Division of Vocational Rehabilitation
2401 E. McCarty Street
Jefferson City, MO 65101

Q. WHAT IS THE ROLE OF THE STATE DEPARTMENT OF EDUCATION IN IMPLEMENTING THESE LAWS?

A. The State Department of Elementary and Secondary Education has three roles to fill: developing acceptable state plans, monitoring local school compliance and providing technical assistance and support services.

Q. WHAT GUIDELINES ARE AVAILABLE FOR LOCAL ADMINISTRATORS TO FOLLOW?

A. The following materials should be most helpful.

Herman, A. and Walker, L. (1978). Handbook of employment rights of the handicapped: Sections 503 and 504 of the rehabilitation act of 1973. Washington, D. C.: Regional Rehabilitation Research Institute on Attitudinal, Legal, and Leisure Barriers, George Washington University.

Mallory, A. (1983). Resource guide for special education, Volume 1-A, administrative procedures, and volume 1-B, identification and initial programming. Jefferson City: Missouri Department of Elementary and Secondary Education, Division of Special Education.

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